STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED May 2, 2000
v	No. 213823 St. Joseph Circuit Court
DELMAR THORNTON, Defendant-Appellant.	LC No. 97-008801-FH

Before: Wilder, P.J., and Sawyer and Markey, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of assault with intent to rob while unarmed, MCL 750.88; MSA 28.283, and habitual offender, third offense, MCL 769.11; MSA 28.1083. The trial court sentenced defendant as an habitual offender to ten to thirty years in prison, with credit for 245 days. Defendant appeals as of right. We affirm.

Defendant argues that insufficient evidence was produced at trial to support his conviction of assault with intent to rob while armed. Specifically, he contends that because the evidence established that he was intoxicated at the time the incident took place, the jury could not find beyond a reasonable doubt that he had the requisite intent to commit the offense. We disagree.

When reviewing a challenge to the sufficiency of the evidence, we view the evidence presented in a light most favorable to the prosecution, and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. The trier of fact may make reasonable inferences from evidence in the record, but may not make inferences completely unsupported by any direct or circumstantial evidence. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748, amended on other grounds 441 Mich 1201 (1992); *People v Warren*, 228 Mich App 336, 343; 578 NW2d 692 (1998).

The elements of assault with intent to rob while unarmed are: (1) an assault with force and violence; (2) an intent to rob and steal; and (3) the defendant being unarmed. *People v Chandler*, 201 Mich App 611, 614; 506 NW2d 882 (1993). This offense is a specific intent crime. *People v Spry*, 74 Mich App 584, 596; 254 NW2d 782 (1977). Although voluntary intoxication is a defense to a

specific intent crime, *People v Maleski*, 220 Mich App 518, 521; 560 NW2d 71 (1996), a finder of fact is not required to conclude that a defendant's intoxication prevented him from forming the specific intent necessary to commit the charged offense. Specific intent can be express, or it can be inferred from the facts and circumstances surrounding the incident. *People v Beaudin*, 417 Mich 570, 575; 339 NW2d 461 (1983).

Here, the evidence showed that defendant pushed complainant to the ground, and that defendant and his co-defendant rummaged through complainant's pockets looking for money. The men fled when a police car approached the scene. Both officers identified defendant as a perpetrator, and one officer indicated that defendant and his co-defendant appeared to be intoxicated. This evidence supported a finding that defendant, even though intoxicated, specifically intended to rob complainant. Viewed in a light most favorable to the prosecution, the evidence was sufficient to support defendant's conviction of assault with intent to rob while unarmed. *Wolfe, supra*.

Defendant also argues that he is entitled to resentencing because his sentence is disproportionate to his circumstances and those of the offense. *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990). We disagree.

The standard of review for a sentence imposed on an habitual offender is abuse of discretion. If an habitual offender's underlying criminal history demonstrates that he is unable to conform his conduct to the law, a sentence within the statutory limits does not constitute an abuse of discretion. *People v Hansford (After Remand)*, 454 Mich 320, 326; 562 NW2d 460 (1997). In imposing sentence, the trial court noted that defendant had a lengthy record consisting of twelve prior convictions, that he had a long-standing substance abuse problem, that he committed an offense against an elderly, frail person, and that he refused to accept responsibility for his actions. The trial court's articulation of reasons for imposing the sentence that it did was sufficient. See *People v Fleming*, 428 Mich 408, 428; 410 NW2d 266 (1987). Defendant has demonstrated that he is unable to conform his conduct to the requirements of the law. His sentence was within the statutory limits, MCL 769.11(1)(a); MSA 28.1083(1)(a), and did not constitute an abuse of discretion under the circumstances.

Affirmed.

/s/ Kurtis T. Wilder
/s/ David H. Sawyer
/s/ Jane E. Markey